

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

JERRILYN SOLOMON,

Debtor.

Case No. 05-60432  
Chapter 13  
Hon. Marci B. McIvor

OPINION DENYING TRUSTEE'S OBJECTION TO FIRST APPLICATION FOR  
APPROVAL OF PAYMENT OF ATTORNEY FEES THROUGH CHAPTER 13 PLAN

This matter came before the Court on the Trustee's Objections to Debtor's counsel's First Application for Approval of Payment of Attorney Fees through Chapter 13 Plan. The Trustee objects to the fee application on the grounds that specific time entries are excessive and unreasonable under 11 U.S.C. § 330, that professional fees are sought for work that was ministerial or clerical in nature, and that costs have not been sufficiently detailed. Having fully reviewed the file, the Application, and the Objections thereto, the Court DENIES the Trustee's objection and awards attorney fees in the amount of \$3,688.00 and costs in the amount of \$99.05, for a total award of \$3,787.05.

I.

FACTS

Debtor Jerrilyn L. Solomon filed a Chapter 13 bankruptcy petition on June 24, 2004. On July 11, 2005, a chapter 13 plan was proposed and, on August 18, 2005, an amended chapter 13 plan was submitted, along with amended schedules. On August 25, 2005, Debtor filed a second amended plan and a second set of amended schedules.

Apparently, Debtor had become separated from her spouse sometime after the original plan was filed, resulting in a change of circumstance necessitating the filing of the amended plans and schedules. The Trustee objected to each of Debtor's proposed plans. On October 6, 2005, confirmation was granted by consent.

Debtor also had to defend a motion for relief from stay filed by the creditor owed on her purchase of a 2001 Ford Taurus. That matter was settled.

On October 17, 2005, counsel filed his First Application for Approval of Payment Attorney Fees through Chapter 13 Plan. The Application seeks attorney fees in the amount of \$3,688.00 and costs in the amount of \$99.05, for a total award of \$3,787.05. On November 4, 2005, the Trustee filed Objections to the Fee Application. A hearing on the Fee Application was held on December 8, 2005.

## II.

### ANALYSIS

#### A. Jurisdiction

This is a core proceeding under 28 U.S.C. § 28 U.S.C. 157(b)(2)(A), over which this Court has jurisdiction pursuant to 28 U.S.C. §§ 1334 and 157(a).

#### B. Standard for Awarding Fees

In the Sixth Circuit, the lodestar method is used for calculating fees. *In re Boddy*, 950 F.2d 334, 337 (6<sup>th</sup> Cir. 1991). The lodestar amount is calculated by multiplying the attorney's reasonable hourly rate by the number of hours reasonably expended. *Id.*

Bankruptcy Code § 330(a) codifies the criteria for evaluating fee requests. Section 330(a) states, in part:

(1) After notice to the parties in interest and the United States Trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103 --

(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any para-professional personal employed by any such person; and

(B) reimbursement for actual, necessary expenses.

(2) The court may, on its own motion or on the motion of the United States Trustee, the United States Trustee for the District or Region, the trustee for the estate, or any other party in interest, award compensation that is less than the amount of compensation that is requested.

(3) In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant facts, including

(A) the time spent on such services;

(B) the rates charged for such services;

(C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue or task addressed; and

(E) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

(4)(A) Except as provided in subparagraph (B), the court shall not allow compensation for --

(i) unnecessary duplication of services; or

(ii) services that were not --

(I) reasonably likely to benefit the debtor's estate; or

(II) necessary to the administration of the case.

\* \* \*

To summarize, 11 U.S.C. § 330(a) requires that requested fees must meet three conditions. The fees must be: (1) reasonable; (2) incurred for services that were actually rendered; and (3) incurred for services that were necessary. *In re Allied Computer Repair, Inc.*, 202 B.R. 877 (Bankr. W.D. Ky. 1996).

The Sixth Circuit has adopted a "lodestar method" for actually applying the requirements set forth in 11 U.S.C. § 330. *In re Boddy*, 950 F.2d 334, 337 (6<sup>th</sup> Cir. 1991). The lodestar method requires that the court first determine a reasonable hourly rate, and then multiply the rate times the reasonable number of hours expended to perform actual, necessary services. The Court may "then determine whether a global reduction or enhancement of the fees is in order." *In re Atwell*, 148 B.R. 483, 492-93 (W.D. Ky. 1993). The ability to review fee applications in the context of each individual case "permits the Court to balance the following two competing interests: (1) rewarding the attorney practicing bankruptcy on a level commensurate with other areas of practice; against (2) the need to encourage cost-conscious administration." *Allied Computer Repair, Inc.*, 202 B.R. at 884-85. A bankruptcy court has broad discretion in determining fee awards. *Manf. Nat'l Bank v. Auto Specialties Mfg. Co. (In re Auto Specialties Mfg. Co.)*, 18 F.3d 358

(6<sup>th</sup> Cir. 1994). The burden of proof is upon the applicant to justify the requested fees. *In re Hamilton Hardware Co., Inc.*, 11 B.R. 326 (Bankr. E.D. Mich. 1981).

C. Objections to Fees

1. Reasonableness of Specific Time Entries

The Trustee objects to specific time entries on the application as unreasonable and excessive. (Trustee's Objections ¶¶ 1, 2). Having reviewed the entries to which the Trustee objects, the Court finds those entries to be reasonable. Debtor became separated from her husband early in her case and her entire financial situation changed. Therefore, Debtor's counsel was required to file several amendments to Debtor's schedules and chapter 13 plan. Debtor's counsel was also required to defend a motion for relief from stay and several objections to confirmation. Despite the work required on this case, Debtor's counsel still managed to get Debtor's plan confirmed, an outcome which should be rewarded. Based on the facts of this case, none of the time entries to which the Trustee objects set forth unreasonable or excessive fees.

2. Clerical Services / Overhead

The Trustee objects to five entries in the fee application on the grounds that the services provided were clerical in nature and, therefore, non-compensable as overhead. (Trustee's Objections ¶¶ 3 (a)-(e)). The Trustee relies on *In re Mayes*, 101 B.R. 494 (Bankr. E.D. Mich. 1998) and *In re Atwell*, 148 B.R. 483 (Bankr. W.D. Ky. 1993) in support of his position.

The Court agrees that attorneys may not bill clients for clerical tasks because those tasks are considered a part of a law firm's overhead. Clerical tasks include filing motions, mailing letters, typing ( *In re Woodward East Project, Inc.*, 195 B.R. 372, 377 (Bankr. E.D. Mich. 1996)), opening files, organizing paperwork, entering client information into the system, filing papers, and copying (*In re Pinkins*, 213 B.R. 818, 824 (Bankr. E.D. Mich. 1997)).

Having specifically reviewed the entries to which the Trustee objects, the Court finds that the entries are appropriate and the Trustee's Objections are denied. The Court further notes that, in this electronic age, drafting, filing and serving documents are often intrinsically intertwined.

### 3. Detailing of Costs

The Trustee objects to the costs requested on the grounds that they were not sufficiently detailed. This Court finds that the costs were sufficiently detailed in counsel's fee application. Therefore, this objection is denied.

## III.

### CONCLUSION

For the reasons stated above, the Trustee's Objections to Debtor's counsel's First Application for Approval of Payment of Attorney Fees through Chapter 13 Plan are DENIED. Debtor's counsel is awarded attorney fees in the amount of \$3,688.00 and costs in the amount of \$99.05, for a total award of \$3,787.05.

Entered: December 21, 2005

/s/ Marci B. McIvor

Marci B. McIvor

United States Bankruptcy Judge